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UNITED STATES DISTRICT COURT  
DISTRICT OF OREGON  
MEDFORD DIVISION

DENNIS LINTHICUM and ANTHONY  
INTISO,

Plaintiffs,

v.

THE FEDERAL ENERGY REGULATORY  
COMMISSION, THE STATE OF OREGON,  
THE STATE OF CALIFORNIA and DOES 1  
through 100,

Defendants.

Case No. 1:23-cv-00834-AA

Defendant State of California's Motion to  
Dismiss Plaintiffs' Complaint

[Oral Argument Not Requested]

Defendant State of California (California), by and through its undersigned counsel moves this Court for an order dismissing the Complaint of Plaintiffs Dennis Linthicum and Anthony Intiso (collectively, Plaintiffs). This motion is made following the telephone conference of counsel and Plaintiff Anthony Intiso pursuant to the Local Rules of Civil Procedure, Rule 7 of this Court, which took place on June 26, 2023. As detailed by the accompanying Declaration of Emily M. Hajarizadeh, California made a good faith effort through correspondence to Plaintiffs and a telephone conference with Mr. Intiso to resolve the dispute and has been unable to do so. More specifically, as documented in Ms. Hajarizadeh's declaration:

On June 22, 2023, Ms. Hajarizadeh emailed Plaintiffs requesting and proposing dates and times to meet and confer on a possible motion to dismiss. Declaration of Emily M. Hajarizadeh in Support of Defendant State of California's Motion to Dismiss Plaintiffs' Complaint (Hajarizadeh Decl.) at ¶ 3. On the same day, Mr. Intiso responded with his availability to meet and confer. *Id.* On June 23, 2023, Ms. Hajarizadeh confirmed her availability to meet and confer with Plaintiffs on June 26, 2023 at 1:45 p.m. and, having not heard from Mr. Linthicum, also inquired as to whether Mr. Linthicum would join the meet and confer. *Id.* Neither Plaintiff responded. *Id.*

On June 26, 2023, at the agreed upon time, Ms. Hajarizadeh called the agreed upon phone number and discussed with Mr. Intiso each of the defenses raised in the underlying motion with Mr. Intiso. Hajarizadeh Decl. at ¶ 4. Mr. Linthicum did not attend the meet and confer telephone conference. *Id.* At the telephonic meet and confer, Ms. Hajarizadeh asked Mr. Intiso if Mr. Linthicum would be joining the call to which Mr. Intiso responded that Mr. Linthicum would not be joining but that was authorized to speak on the behalf of both Plaintiffs. *Id.* While Mr. Intiso represented to Ms. Hajarizadeh that he was authorized by Mr. Linthicum to speak on behalf of both Plaintiffs, it is not clear that, as a non-attorney, *pro se* plaintiff, he is legally

permitted to do so under the rules of this Court and Oregon's statutory prohibition on the unauthorized practice of law. *See, e.g.*, ORS 9.160 (Oregon bar membership required to practice law).

This motion seeks dismissal of Plaintiffs' Complaint under:

1. Federal Rule of Civil Procedure 12(b)(1) and (6) for lack of subject matter jurisdiction and Eleventh Amendment immunity as to all claims against California.
2. Federal Rule of Civil Procedure 12(b)(1) for lack of standing as to all claims against California;
3. Federal Rule of Civil Procedure 12(b)(6) for failure to state a claim upon which relief can be granted as to all of claims against California.

PLEASE TAKE NOTICE THAT California is not requesting oral argument, and this motion is made to the Honorable Ann Aiken, United States District Judge, James A. Reddon United States Courthouse, 310 West Sixth St., Medford, OR 97501.

This motion is made upon the accompanying Memorandum of Points and Authorities, and Request for Judicial Notice, and all pleadings, records, and other documents on file with the Court in this action.

Dated: July 20, 2023

Respectfully submitted,

/s/ David Bahr  
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